NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION III

CACR06-1123

June 6, 2007

CHARLES WAYNE PORTER APPELLANT	APPEAL FROM THE HOT SPRING COUNTY CIRCUIT COURT [NO. CR-05-204-2]
V.	HON. PHILLIP H. SHIRRON, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

The appellant was charged with first-degree murder. A jury found him guilty of manslaughter, and he was sentenced to ten years' imprisonment. On appeal, he argues that the trial court erred in denying his motion for a directed verdict. We affirm.

A directed verdict is a challenge to the sufficiency of the evidence. On appeal, the test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, direct or circumstantial. *Alexander v. State*, 78 Ark. App. 56, 77 S.W.3d 544 (2002). Substantial evidence is evidence of sufficient certainty and precision to compel a conclusion one way or the other and pass beyond mere suspicion or conjecture. *Atkinson v. State*, 347 Ark. 336, 64 S.W.3d 259 (2002). In making our review, we view the evidence in

the light most favorable to the State and consider only the evidence that supports the verdict. *Alexander v. State*, *supra*.

Appellant presented a justification defense at trial. When police arrived at the scene and found the dying victim holding his exposed intestines, appellant spontaneously stated that he had stabbed the victim in self-defense because the victim was attempting to hit appellant in the head with a baseball bat. At trial, appellant moved for a directed verdict on the offenses of first-degree and second-degree murder, arguing that there was no evidence that he acted purposely. On appeal, he argues that the evidence is insufficient to support his conviction of manslaughter. We affirm.

First, appellant never presented the trial court with any argument that the evidence was insufficient to support a finding that he committed manslaughter. His argument that there was no evidence of purposeful conduct cannot apply to manslaughter because manslaughter does not require a finding that appellant acted purposely except in cases of assisted suicide; instead, manslaughter of the type for which appellant was convicted requires a finding that the defendant acted either recklessly or under the influence of extreme emotional disturbance for which there was reasonable excuse. *See* Ark. Code Ann. § 5-10-104(a)(1)(A) and (a)(3) (Repl. 2006). No arguments were presented at trial regarding these elements, and appellant is bound by the scope of the argument presented at trial. *See Brown v. State*, 347 Ark. 308, 65 S.W.3d 394 (2001).

Second, there would be no error even if appellant's argument had been preserved. Appellant relies on justification in his argument on appeal, but justification is not available as a defense in a prosecution for an offense for which recklessness or negligence suffices to establish culpability. Ark. Code Ann. § 5-2-614(a) (Repl. 2006).

Affirmed.

BIRD and GRIFFEN, JJ., agree.